

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

214

CRM-M-37274-2023 (O&M)

Date of order: 07.08.2023

Karamjeet @ Manpreet

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Parveen Kaushik, Advocate
for the petitioner.

Nidhi Gupta, J.

Present is the first petition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") seeking grant of regular bail in case FIR No.442 dated 30.09.2021 registered under Sections 363, 366-A and 376 of Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Beri, District Jhajjar, Haryana.

2. Notice of motion.

3. Mr. Brijesh Sharma, AAG Haryana accepts notice on behalf of respondent-State.

4. FIR in the present case was registered on the basis of statement of father of the alleged victim who was 16 years old at the time of occurrence. FIR is reproduced hereinbelow:-

“To the SHO Sahab police station Beri It is requested that I Rajkumar S/o Bishamber Dayal, is resident of Dharaba. My daughter Himanshi is aged about 16 years, who is missing after 11.00 O’clock of night of 29.09.2021. I and my family searched my daughter for the whole night but we did not find out whereabouts of. I have doubt that person of named Manpreet who is in knowns of Ramkumar s/o Phool Singh. Who often comes to my house. Same person has made my daughter to run away with him by enticing my daughter. Whose mobile no. is 95242000060, 8054680343, 7710455100. My daughter whose height is 4 Feet 6 Inches, fare complexion, wearing white T-shirt and black lower. My daughter has gone having taken some necessary articles and mobile with her. Whose mob. No. is 7404043928. It is my request to you that my daughter may kindly be searched out and appropriate legal action may kindly be taken”.

5. It is inter alia submitted by learned counsel for the petitioner that the relationship between the petitioner and the prosecutrix was consensual in nature. It is submitted that there are material discrepancies in the statements of the victim and the complainant inasmuch as the victim in her statement under Section 164 Cr.P.C. recorded on 04.10.2021 (Annexure P-2), and in her deposition as PW1 (Annexure P-3), has stated that the petitioner had made her smell something due to which she got unconscious and when she woke up she was in the hotel room where the petitioner committed rape upon her. Whereas the complainant in the FIR has alleged that his daughter was missing and that he suspected the hand of the petitioner in the abduction of his daughter. Learned counsel submits that complainant has admitted in the FIR, that the

victim had gone away taking some necessary articles and mobile phone with her.

6. Learned counsel submits that it has been admitted by the prosecutrix in her deposition that earlier in 2018 one Ram Kumar, who was Coach in the akhada, where the petitioner and the prosecutrix used to practise wrestling, had also committed rape upon her as a result of which she had become pregnant. It is submitted that prosecutrix has admitted that said Ram Kumar had given her some tablets which caused the pregnancy to be aborted/terminated. Prosecutrix has further admitted that she did not mention about the above incidents and facts to her family as she was scared and ashamed.

7. Learned counsel further submits that as per the MLR, no mark of any external injury was found on the victim. It is further submitted that the petitioner has been in custody since 03.10.2021; and there is no other case against the petitioner.

8. Learned State Counsel files custody certificate dated 06.08.2023 which is taken on record and as per which the petitioner has undergone custody as undertrial for 1 year 10 months and 1 day. Learned counsel states that the prosecutrix was recovered from the custody of the petitioner from the hotel where the petitioner had kept the prosecutrix for two days and two nights. Learned counsel further submits that out of 23 witnesses 15 have been examined so far. Learned State Counsel admits that the material witnesses, being the prosecutrix and the complainant, already stand examined. He states that the DNA report is awaited.

9. I have heard learned counsel for the parties.

10. Without commenting on the merits of the matter, in view of the fact that material witnesses already stand examined; the trial will take some time to conclude; and the fact that the petitioner has been in custody since 06.10.2021, for a period of 1 year 10 months and 1 day, the present petition is **allowed**. The petitioner namely Karamjeet @ Manpreet son of Joginder Singh is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

11. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

12. Pending application(s) if any also stand(s) disposed of.

07.08.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No